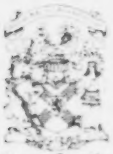


Nova Scotia

ANNUAL REPORT

April 1, 1995, to December 31, 2000

Ombudsman

Nova Scotia

103-02689/

ANNUAL REPORT

April 1, 1995, to December 31, 2000

Ombudsman

The Honourable Murray Scott
Speaker of the House of Assembly
The Legislative Assembly
Province of Nova Scotia

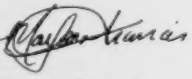
September 2002

Sir:

In accordance with Section 24 (1) of the **Ombudsman Act**, being Chapter 3 of the Statutes of Nova Scotia 1970–71, I have the pleasure of presenting to you, and through you to the Members of the Legislative Assembly, the Annual Report of the Office of the Ombudsman.

This report covers the period of April 1, 1995–December 31, 2000, and reflects a time of great change and development both in resources and in mandate for the Office of the Ombudsman. This report marks the end of the 30th year of the Nova Scotia Ombudsman, and as the following pages demonstrate, we began the new millennium with renewed dedication to ensure fairness for all citizens of Nova Scotia. In this report, which looks as much to the future as to the past, recent additions to the office in terms of both strategies and programs are discussed. These were largely initiated during the tenure of my predecessor, Douglas G. Ruck, Q.C. I am hopeful that all Members of the Legislative Assembly and citizens will find the programs interesting and worthwhile.

Respectfully submitted,



Mayann Francis
Ombudsman

In Memoriam

This report is dedicated to the memory of Dr. Harry D. Smith,
Nova Scotia's first Ombudsman.

Dr. Harry D. Smith
March 2, 1917–April 22, 1995
Ombudsman 1971–1981

CONTENTS

Mission 7

Roots and New Directions: A Message from the Ombudsman 7

A Guide to the Office of the Ombudsman 8

History of the Ombudsman Concept 8

The Ombudsman in Nova Scotia 9

The Ombudsman Team 11

Ombudsman 11

Assistant Ombudsman 12

Assistant Ombudsman (Children's Ombudsman) 12

Director, Investigations 13

Office Staff 13

Office of the Ombudsman 13

Investigations 14

Phase One: Initial Screening 15

Phase Two: Assessment 15

Phase Three: Formal Investigations 15

Possible Outcomes 16

Bringing in CHAOS: Updating the Operating System of the Ombudsman 17

Future Directions 19

Children's Ombudsman Section 19

Establishment of a Children's Ombudsman Section 19

UN Convention on the Rights of the Child 20

Role and Responsibilities 21

Accountability for Youth in Custody 22

Investigations and Reports: Promoting Positive Change 22

Accountability for Youth in Care: Pending Participation 23

Cooperation 23

Future Directions 25

A Portrait of the Work of the Office of the Ombudsman 25

Legal Aid Concerns: Creating Solutions 25

Wage Settlement 26

Conflicts: Trying to Balance Individual Rights 27

Opening the Lines of Communication 28

Public Service Award 28

Children's Ombudsman Section - Sample Cases 29

Systemic Review of Youth Complaints - "Review of Disposition" Process - Nova Scotia Legal Aid and Correctional Services, Department of Justice 29

Female Youth Denied Basic Necessities while in Police Cells - Municipal Police Services 29

Systemic Review of Police Services - Police Competence in Relation to their Involvement with Youth 29

Tools of the Ombudsman Trade 30

An Ombudsman's Dictionary 30

Guidelines to Minimize Conflict 36

MISSION

To ensure the concerns of all citizens—including youth in the care and custody of the municipal and provincial governments—regarding principles of administrative fairness and natural justice in the delivery of municipal and provincial public services are addressed through an independent, objective, review mechanism.

ROOTS AND NEW DIRECTIONS: A MESSAGE FROM THE OMBUDSMAN

My appointment as Ombudsman in December 2000, although seen as a temporary move, presented many challenges for me. Some members of the public clearly expressed the view that my dual appointment as Ombudsman and Executive Director of the Nova Scotia Human Rights Commission presented a conflict of interest. Immediately after I was appointed, I sought legal advice about conflict issues. The result was a policy which took affect in March 2001 to minimize conflict of interest. Copies are available to the public. Staff for both organizations were briefed on the policy. A copy is attached to this report.

The next big challenge was to illustrate to the public that both organizations remained independent of one another. The government's intent with my appointment was to expand the organizational review of the Human Rights Commission to look for possible synergies with the work of the Ombudsman's office. In February 2002, the government announced that the Ombudsman would remain independent and a permanent Ombudsman would be appointed in the summer of 2002.

My tenure with the Ombudsman's Office has been a very rewarding experience. While both the Human Rights Commission and the Ombudsman's office deal with complaints, their mandates are remarkably different. Under its *act*, the Ombudsman investigates complaints against provincial and municipal levels of government for maladministration. As you will read in this report, the Ombudsman also has a proactive focus on children's issues. On the other hand, the Human Rights Commission's scope extends beyond government to private industry under the provisions of the *Nova Scotia Human Rights Act*.

Staff at the Ombudsman's Office have been very supportive during this dual appointment. My sincere thanks goes to Linda Chisholm, Assistant Ombudsman/Children's Ombudsman, who played a critical role in ensuring that the Office of the Ombudsman was not compromised.

Janet McKinnon, Director of Investigation, managed her section with diligence throughout this period. All staff cooperated and demonstrated their commitment and loyalty to the Office of the Ombudsman. Working together, all levels of the Ombudsman staff have been able to ensure that service to the public has met high standards.

The staff of the Ombudsman's Office, along with myself, look forward to building on the achievements of the past several years and realizing opportunities in the coming year. This will include the appointment of a permanent Ombudsman in 2002, increased outreach and education to government departments and the public, and improvements to information and statistical tracking.

The focus of the Ombudsman's office will continue to be providing efficient, effective, and courteous service to Nova Scotians. I thank the staff for their commitment to these goals.

A GUIDE TO THE OFFICE OF THE OMBUDSMAN

HISTORY OF THE OMBUDSMAN CONCEPT

The term *Ombudsman* is originally derived from the Swedish word "Justitieombudsman," meaning a representative or advocate of the people. The first Ombudsman was appointed in 1809 by the King of Sweden to protect his subjects from injustices at the hands of state officials. The concept of a protector of the rights of citizens was not exclusive to Scandinavian Europe. There is evidence of similar advocates from cultures as diverse as Imperial Japan, China, and Africa. Until the mid-twentieth century, Ombudsman offices in the Swedish model were confined to several countries in northern Europe. After the Second World War, the scope of government services and bureaucracy grew with such speed and breadth that it became obvious that citizens were increasingly vulnerable to the decisions and actions of civil servants with little avenue for redress. The Ombudsman structure was a simple way to protect against bureaucratic abuses of power, and, accordingly, the concept spread to other countries. New Zealand was the first non-Scandinavian nation to adopt an Ombudsman in 1962.

The transition of many nations towards increasingly democratic structures of government has been accompanied by the creation of ombudsman-like offices in such places as Latin America, Central and Eastern Europe, and parts of Asia-Pacific and Africa. There are now over 110 national ombudsman offices in existence. A European ombudsman

has also recently been created under the Mastricht Treaty, with jurisdiction covering the entire European Community. While the title of offices may differ between countries, the fundamental nature of the function is maintained. Titles range from the Parliamentary Commissioner for Administration (United Kingdom) to Investigator-General (Zambia) and Volksanwaltschaft (Austria). There are thousands of offices with similar scopes and mandates at the provincial and local levels. In 1978, the International Ombudsman Institute was created in Edmonton, Alberta, to coordinate communication and cooperation among the many such offices around the world.

The concept of ombudsman, also called ombudswork, has become so familiar that the term is commonly used to describe any office that receives complaints about the way in which an organization conducts its business. The "man" in ombudsman does not refer to the occupier of the position, but rather to the citizens in general whose interests the ombudsman protects. In recent years, many corporations have adopted the ombudsman model to create mechanisms for internal dispute resolution, and to receive complaints from staff, employees, and customers. In Canada, the most prominent non-legislated or corporate offices include the CBC Ombudsman, Canada Post Ombudsman, and various university ombudsman offices.

In 1978, a bill to establish a national ombudsman was drafted, but was never enacted. Nonetheless, there are a growing number of federal offices with mandates similar to the eight provincial Ombudsman offices. These include the Commissioner of Official Languages, the Privacy Commission, the RCMP Public Complaints Commission (name changed to the Commission for Public Complaints Against the RCMP in January 2001) and the National Defense Ombudsman.

THE OMBUDSMAN IN NOVA SCOTIA

The office was established in 1970 under the *Ombudsman Act*, creating a legislative ombudsman accountable to the House of Assembly. With this authority, the ombudsman can act independently from government to investigate decisions and actions by government officials. This independence is a key requirement for an ombudsman to work effectively.

The purpose of the Office of the Ombudsman in Nova Scotia is to improve the delivery of government services provided to Nova Scotians.

The Nova Scotia Ombudsman has broad formal jurisdiction to investigate the actions of government as they affect Nova Scotians. Under the *act*, the Ombudsman can investigate or review the actions of any provincial or municipal government department, agency, board, or commission. The office assists individuals who feel they have been treated unfairly while using such services. Investigations by the Ombudsman cannot be used as evidence in a court of law, nor can complainants seek redress in a judicial forum. The scope of the Ombudsman Office has grown over the past 30 years, moving towards a proactive role in educating the public of Nova Scotia about the services of the Office and widening the spectrum of investigations that are conducted.

If a citizen has a complaint about the Office of the Ombudsman, the complaint is directed immediately to the Ombudsman. If the complainant is unsatisfied with that result, he or she is advised to inform the Speaker of the House of Assembly of any concerns about the Ombudsman. The Speaker may then offer the complaint to the House which can strike a Committee to investigate the allegation.

The Office of the Ombudsman will encourage complainants to proceed through the internal appeal process of the government body involved. If this process is unsuccessful or the complainant still has concerns, the investigative team of the office will look into the matter. The Office of the Ombudsman does not handle complaints involving decisions of Cabinet, the law courts or judges, federal government departments or agencies, or private companies.

The role of the Office of the Ombudsmen is to monitor fairness and equity in public administration.

The Office of the Ombudsman is non-partisan and operates as an independent agency of government. Any complaint filed with the office is confidential and is not subject to freedom of information requests. Following an investigation, the Ombudsman will make recommendations to the government body involved, if necessary. The office might recommend that the government body

- review how it handled the complaint
- change its policies and procedures
- apologize

- improve how it communicates with the public and other government bodies or

- other remedies as deemed appropriate

THE OMBUDSMAN TEAM

The Nova Scotia Office of the Ombudsman has enjoyed an expansion in both responsibilities and resources since Dr. Harry Smith was appointed in 1971. Dr. Smith conducted his work with the help of one secretary, but as more members of the public came to rely on the services of the Ombudsman, the staff of the Office grew to nine people by the end of 2000.

OMBUDSMAN

The Ombudsman for Nova Scotia for 1995–2000 was Douglas Ruck, Q.C. A lawyer and former chair and vice-chair of several boards and tribunals, Douglas Ruck brought his extensive experience in labour, human rights, civil litigation, and administrative law to his position as Nova Scotia's Ombudsman.

After completing his undergraduate degree at the University of King's College, Mr. Ruck pursued graduate studies in political science at Simon Fraser University before attending Dalhousie University, where he earned a Bachelor of Laws. While managing partner for the private law practice of Ruck & Mitchell, Mr. Ruck was Chairman of the Labour Standards Tribunal, the Civil Service Employee Relations Board and the Public Sector Compensation Board. He also served as vice-chair for both the Labour Standards Tribunal and Labour Relations Board, and as Board of Inquiry for the Human Rights Commission. In his capacity as Ombudsman, he was an apolitical, impartial, and independent officer of the elected legislature.

Mr. Ruck's sincere dedication to the standards and objectives of the Ombudsman concept were shown by his constant emphasis on continued learning and skill-development for himself and his office staff. Mr. Ruck has worked closely with the Canadian Ombudsman Association in encouraging the creation of a federal Ombudsman, and creating international linkages with other offices to share strategies and ideas for improving the delivery of Ombudsman services. As well, through his many public speaking and panel positions through the years, Mr. Ruck has worked to raise the public profile of the Office in order to educate both citizens and government about the role of the Office and the services it provides.

ASSISTANT OMBUDSMAN

The Assistant Ombudsman is responsible for the administrative functioning of the Office. Until his retirement in 2000, Gerald DeYoung was the Assistant Ombudsman. Mr. DeYoung worked with the Ombudsman of Nova Scotia for over 25 years, starting as an investigator with the province's first Ombudsman, Dr. Harry Smith. Mr. DeYoung is a graduate of Dalhousie University, and worked with the Department of Community Services before coming to the Office of the Ombudsman.

With the retirement of Mr. DeYoung and a reorganization of the Office of the Ombudsman, the position of Assistant Ombudsman was restructured to allow for the position of Children's Ombudsman. The Assistant Ombudsman (Children's Ombudsman) is Linda Chisholm. Ms. Chisholm divides her time between the administration of the Office and overseeing the development of the Children's Ombudsman responsibilities.

ASSISTANT OMBUDSMAN (CHILDREN'S OMBUDSMAN)

Linda Chisholm combines her investigation, education, and public service experience in her role as the Assistant Ombudsman (Children's Ombudsman). Ms. Chisholm received her Masters degree in Public Administration from Dalhousie University and her dual Bachelor of Arts degree in the field of Sociology and Criminology from Saint Mary's University. While studying at Saint Mary's, she received both the Dr. Perrier Scholarship and the Saint Mary's University Student scholarship yearly for outstanding academic achievement. Furthering her education, she graduated from the Negotiation and Conflict Management Program offered through Dalhousie University and completed the Mediation and Dispute Resolution Program at Harvard Law School in 1999.

Ms. Chisholm joined the Nova Scotia provincial government in 1981. Ms. Chisholm researched and began implementation of a Children's Ombudsman model designed to oversee child protection and custody serving systems to promote fairness, accessibility, and responsiveness to the needs of children and youth, particularly in relation to designated services and programs provided or funded under a variety of municipal and provincial acts and regulations.

DIRECTOR, INVESTIGATIONS

Janet McKinnon came to the Office from the Nova Scotia Human Rights Commission, bringing a wide range of experiences. Ms. McKinnon is responsible for overseeing assessments and investigations. She is a graduate of Saint Francis Xavier University (B.A.) and the Nova Scotia Land Survey Institute (Community Planning diploma). She credits her time at Survey School as instilling in her the importance of attention to detail which is essential in conducting thorough investigations. Over the years with the Ombudsman, Ms. McKinnon has paid considerable attention to professional development, and has taken part in a wide range of courses, including Leadership Development, Negotiation, and Mediation Training.

OFFICE STAFF

The Office of the Ombudsman consists of a team of dedicated professionals who represent the unique Office with impartiality and fairness tempered with compassion. The many changes within the Office in 1999–2000 meant, for the first time in many years, that new staff members were added. These included investigators, a systems administrator, a research assistant, and field officers in the Children's Section.

As part of its mandate to promote fair and effective public administration, the Office of the Ombudsman has a commitment to the future of the public service in Nova Scotia. Each summer, students are placed with the Office of the Ombudsman as part of mentor programs designed to give students the opportunity to gain experience in government. As well, the office has a long-standing tradition of participating in the yearly Internship program with Dalhousie University's School of Public Administration.

OFFICE OF THE OMBUDSMAN

INVESTIGATIONS

Complainants who contact the Office of the Ombudsman do so because they are affected by decisions or actions of government. It is important that complainants understand the capabilities and limitations of the office, as well as the process that each investigation generally follows. The different stages are structured to allow all parties to collect information and present their perspective on the situations fairly. As no two complaints are exactly the same, the stages represent guidelines only.

The first step is planning, setting the stage for the remainder of the investigation. During this planning phase, the issues which make up a complaint are mapped out and a strategy is developed for research, information gathering, and meetings with parties. Under the *Ombudsman Act* the Ombudsman cannot require respondents to accept recommendations, but it is very rare for a respondent to reject outright the recommendations of the Ombudsman. Generally, through consultation and discussion, a reasonable and equitable solution is reached.

There are a number of complaint areas that the Office deals with on a regular basis. Investigations differ in scope and length based on the particulars of any case, but some general lines can be drawn about investigations into certain areas.

In 1995, the towns of Cape Breton County amalgamated into the Cape Breton Regional Municipality. This major change had far reaching effects for citizens, reflected in the number of calls to the Office of the Ombudsman relating to services and decisions under the authority of the Cape Breton Regional Municipality. The 1997 amalgamation to the Halifax Regional Municipality of Bedford, Sackville, Dartmouth, Halifax, and the surrounding county had an even more pronounced effect on the number of calls to the Ombudsman from citizens affected by the dramatic changes that ensued. The merging of services and jurisdictions affected a great number of jobs, leading to a number of complaints with this Office. As well, the transition period for both amalgamations was a difficult one for all citizens whose services were greatly affected. Many of these complaints regarding the municipal amalgamations required a great deal of background research, and ranged from concerns about employment to concerns about financial compensation and service delivery.

PHASE ONE: INITIAL SCREENING

This stage involves screening the initial contact to determine the nature of the complaint as well as identifying the agency or organization that is the subject of the complaint. When the organization is not a provincial or municipal department or agency, the Office of the Ombudsman refers the person to the appropriate agency. In cases where complainants have not advised the respective organizations of their concerns, or are not certain of the process they are required to follow to have these concerns addressed, we determine the necessary steps and provide this information to them. This can involve researching the legislation and regulations, and contacting the relevant government department or agency to obtain information.

PHASE TWO: ASSESSMENT

Investigators receive complaints regarding provincial and municipal government departments, agencies, boards and commissions. The investigator determines what is needed in order to have the complaint addressed. Investigators sometimes process complaints on an "informal" basis. Such processes typically follow instances of mis-communication or misunderstanding of government procedures. The cases are often resolved by the Office of the Ombudsman contacting the government representative, presenting the complainant's concerns, obtaining the representative's response, and continuing as a liaison to ensure both parties understand the nature of the problem and are able to continue their working relationship. Where appropriate, suggestions are made for revisions to policy and procedure. Assessment also includes advising complainants when there is no basis for an investigation under the *Ombudsman Act* because policy or procedure is being followed correctly.

PHASE THREE: FORMAL INVESTIGATIONS

Investigations occur when issues alleging administrative error have been identified and are found to warrant investigation. The Office of the Ombudsman is required to notify the head of the provincial or municipal unit, in writing, of its intention to proceed with an investigation. Formal investigations require a great deal of work, which may include

- preparing a summary of the complaint for the complainant's approval which may involve interviewing the complainant in person

- reviewing legislation, relevant policies, procedures, and regulations

- providing a summary of the facts to the respondent, with relevant questions for his or her response

- interviewing collateral sources as required

- extensive documenting and report writing

- in some cases, soliciting a legal opinion

The outcome of investigations are communicated to all parties involved in the process. Reports with recommendations may be issued to address instances of mal-administration.

POSSIBLE OUTCOMES

There are a number of different outcomes following the formal investigation process. Ideally, a solution can be reached that addresses the needs of both the government respondent and the complainant. Some possible outcomes include

- encouraging the parties to discuss the problem, so that they may devise a solution between themselves—if this is unsuccessful, the matter can be returned to the Office of the Ombudsman

- mediating the dispute with the parties involved in the investigation

- having a resolution initiated by the government body involved that is accepted by the complainant

- determining that the matter was properly implemented by the government body or official

- submitting a final report, including recommendations, to the respondent—this may involve ongoing monitoring of the situation to determine if the recommendations are implemented

If the recommendations are rejected, the Ombudsman has the discretion to table the report directly to the Speaker in the House of Assembly.

BRINGING IN CHAOS: UPDATING THE OPERATING SYSTEM OF THE OFFICE OF THE OMBUDSMAN

The process of ensuring effectiveness in the Office extended to all areas of our activity—including the computer system and the tracking software used to monitor cases and complaints. The Business Solutions Delivery Team (BSU) from the Department of Finance helped to design and implement a tailored software system that would meet the Ombudsman's unique needs. They worked closely with Ombudsman staff to create the new software system, the Complaint Handling And Organization System (CHAOS).

From 1995 through 1999, the Office of the Ombudsman used a database known as the Client Tracking System (CTS). It was used to capture basic complainant and respondent information, complaint details, and investigation notes. In mid-1998 a project was initiated to build the new system to be known as CHAOS. The first version of CHAOS was installed in December 1999.

The BSU helped the Office map out its business processes and information requirements. It became apparent that many of the requirements could not be met satisfactorily by a simple upgrade of the existing CTS system. The CTS system was not Y2K compliant which represented a potential crisis to be avoided as well as an opportunity to re-think the Office's information requirements and areas for improvement in office policy and procedures. With such fundamental changes being considered, it was also a perfect opportunity to re-align staff skills and job functions for maximum efficiency and positive action within the Office.

It had become obvious that due to the caseload, the volume of documentation and the complexity of the cases, the Office of the Ombudsman had outgrown CTS. The Office badly needed reliable statistics and status tracking and a more distinct screening and assessment process. Unlike CTS, CHAOS allows users to do online assigning of jurisdictional complaints to investigators; has the ability to easily relate or refer issues from one complaint to another; and to check a respondent's history in the system before beginning an investigation without laborious record searches. CHAOS requires staff to do considerably more coding and classification of information, which allows that information to be more readily retrieved, referenced, and looked at in many more different ways.

The flexibility of the new system allows staff to view the current status of complaints and investigations, and to identify patterns in the nature of complaints over time. CTS could only provide a very close-up look at each complaint, making it very difficult to compare one investigation to another.

The system was designed to support Assessment, which was concurrently developed into a formal stage in the complaint process. Assessment is triggered by a complaint, as it has always been. It involves gathering baseline information, making a determination about jurisdiction, making an initial determination of the issues involved in the complaint, and posting them electronically for assignment to an Investigator.

The changes in the Assessment process are internal, for efficiency and control purposes, and should be transparent to the complainant. The central role of the complainant has not diminished in the new system. However, the effectiveness of the Office in dealing with complaints depends upon the treatment of issues, which under CHAOS have become the central hub of any investigation blueprint. Analysis of the Office's information requirements repeatedly pointed to the prime importance of identifying issues for two reasons: firstly, issues are the basis for objectively determining and correcting individual instances of maladministration, and secondly issues are elements that can be persistent over time or pervasive across many departments or agencies. It is only through broader analysis that systemic concerns can be first noticed, and then addressed.

Each individual jurisdictional complaint will continue to be investigated and brought to resolution or other form of closure in its own context and on its own facts. The new computer system, and the procedural changes that it accompanies, allows the Ombudsman to be proactive as well as reactive. The Office now has the approach and the tools to call attention to a pattern of substantiated systemic issues raised over a period of time by the public or officials, thereby increasing the opportunity for the Ombudsman to identify instances where an "own motion" complaint is appropriate. "Own motion" refers to complaints that are initiated by the Ombudsman, rather than a member of the public.

The improved ability of the Office of the Ombudsman to collect accurate statistics in terms of volume, issues, and responding departments has been one of the most helpful aspects of CHAOS. In 2000, some improvements were made to CHAOS to allow the software to generate reports which sort the outcome of assessments of each complaint, such as *resolved, properly implemented,* or *discontinued*. The outcome of

investigations are currently being recorded manually, therefore improvements in this area are required. The implementation of CHAOS will allow this office to accurately report statistics in subsequent annual reports.

FUTURE DIRECTIONS

The Ombudsman and staff of the Office are committed to continued improvement of the services we provide. Over the past number of years, we have worked diligently to improve the quality and timeliness of investigations and have effectively eliminated the "back log" of complaints. We will continue to review our processes, seeking areas for improvement. Staff training will continue to be provided to all members of our team.

We will also embark upon a communication strategy, beginning with the publication of an information brochure and improvements to the web page. Presentations will be provided by staff of the Office of the Ombudsman to management and staff of the various provincial and municipal government departments, boards, commissions, and agencies, as well as to community groups, with a view of increasing awareness of the roles and responsibilities of the Office of the Ombudsman.

CHILDREN'S OMBUDSMAN SECTION

ESTABLISHMENT OF A CHILDREN'S OMBUDSMAN SECTION

Vision for Children - To ensure the rights of children and youth are respected and valued in government proactive, policy, and legislation in adherence to the principles enshrined in the UN Convention on the Rights if the Child.

A key initiative of the Office of the Ombudsman in recent years has been the establishment of a Children's Ombudsman Section which oversees complaints about the child custody and child protection systems. This development followed both international and national shifts in governmental approaches to children's rights. In 1989, the United Nations adopted the *Convention on the Rights of the Child*, a document which has become the most widely ratified human rights instrument in history. Since that time, there has been an increased recognition of the rights of children worldwide, accompanied by a growing demand for government accountability where services affect or relate to children.

In 1995, the *Stratton Report (Independent Investigative Report of Allegations of Abuse from Former Children in Care)* was released. The investigation had examined allegations of abuse from former children in care or custody of the state, concluding that there was a need for an objective presence in youth facilities. In June 1999, under Section 8(1) of the *Ombudsman Act*, the Ombudsman, Mr. Douglas Ruck, Q.C., delegated the responsibilities of the first Children's Ombudsman to Ms. Linda Chisholm.

UN CONVENTION ON THE RIGHTS OF THE CHILD

The UN *Convention on the Rights of the Child* (CRC) is an international legal document that sets minimum standards for the civil, political, economic, social, and cultural rights of children. Forty-two countries participated in the UN Working Group that took 10 years to draft the Convention. Canada ratified it in 1991, making it a "States Party" to the Convention. Article 4 of the CRC says: *States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.* The treaty places a proactive obligation on governments to introduce the measures needed to turn the principles contained therein into practical realities. One key factor is the extent to which the views of children influence the work of the institutions and the development of government policies.

1999 marked the 10th Anniversary of the United Nations Convention on the Rights of the Child. It is important that everyone recognizes that the Convention is not merely a document, but rather represents a means through which we honour, value and appreciate our children.

- Deborah Parker-Loewen, President, CCPCYA

Visit the websites of organizations mentioned in this Report for more information on the work they are doing to assist children and youth in Canada

Save the Children Canada www.savethechildren.ca

National Youth in Care www.youthincare.ca

Child Welfare League of Canada www.cwlc.ca

Children's Rights Centre, University College of Cape Breton
http://faculty.uccb.ns.ca/childrensrights

For information on the Canadian Council of Provincial Child and Youth Advocates, please write to them at the following address:

Canadian Council of Provincial Child & Youth Advocates
Department 499, 106-3120 Eighth Street East, Sask, SK S7H 0W2

ROLE AND RESPONSIBILITIES

The Office of the Ombudsman believes that children must be treated with respect, recognizing their inherent dignity as human persons. We endeavor to ensure that all services are respectful, appropriate, accessible, accountable, timely, lawful, and consistent, irrespective of the child's location, circumstances, culture, or background. We use dispute resolution processes where possible so that both parties may be satisfied with ultimate outcomes. The result is a proactive, rights-based process that allows children and youth to contact the office to discuss concerns or complaints while in the care or custody of the province.

The right to privacy of the child as well as all other parties involved in the process will be respected. Finally, the office strives to create a safe, healthy, friendly, and courteous work environment which is supportive of children, staff, and the public, while making every effort to ensure government's commitment to the UN *Convention on the Rights of the Child* is met.

The work of the Office adheres to the following model:

VOICE	facilitating and articulating complaints and concerns through education based on principles enshrined in the UN *Convention on the Rights of the Child*, and by informing youth of internal and external complaints procedures
INVESTIGATE	examining complaints, advising authorities about their obligations as guardians, identifying patterns of concern to make policy proposals and recommendations for change
MONITOR	overseeing the availability, effectiveness, and usage of complaint procedures and observing and reporting on authorities' legislative and policy compliance

ACCOUNTABILITY FOR YOUTH IN CUSTODY

Within the custody setting, the office provides an independent and objective presence that monitors the protection of children's rights within the province's youth correctional facilities. Youth in custody and facility staff can contact us on a toll-free line, 1-888-839-6884, or they may arrange to meet with a Field Officer during regular monthly visits. Colorful posters and graphic brochures displaying information on the children's complaint process and contact details are posted throughout youth facilities, and information on the office is distributed and discussed with youth during admission to the facility. In addition, all staff are provided with the staff resource guide developed by our office on the work of the Office, and copies are maintained in all units in the facility.

While the details discussed with the Field Officers remain confidential, monthly reports are provided to the Department of Justice for review. The reports include a summary of the concerns, action taken at the time of visit, policy review, action requested of the facility or Correctional Services, or both, and recommendations for change to ensure the best service delivery possible. Through this proactive approach, the office is able to identify issues and monitor compliance with any law, policy, and recommendations that the office has made so that problems are not left to fester. The office investigates child and youth complaints and advises appropriate authorities about their duties and obligations as guardians. It analyzes findings from children's complaints to identify patterns of concern, using this information in policy proposals and recommendations for change.

INVESTIGATIONS AND REPORTS: PROMOTING POSITIVE CHANGE

While much of the work of the office is preventative, we will formally investigate allegations of serious violations of the rights of youth in custody. An overview of three final reports released in 2000, and action subsequently taken, perhaps best illustrates the wide-reaching positive effects of the existence of a Children's Ombudsman Section. Two reports respond to incidents in which female youths were denied basic necessities while in police custody and both highlight policy deficiencies and a need to develop an internal self-audit process. A third report provides a systemic review of police services in relation to police involvement with youth.

The comprehensive recommendations made in these reports have been fully accepted by receiving agencies. The office has been working closely with appropriate authorities in bringing full implementation of these recommendations, through such initiatives as training and review, to fruition. In response to a finding of systemic conflict between police and youth, the Children's Ombudsman researched and prepared a report entitled *Cross-cultural Training for Policing Services*, which outlines the gaps in understanding between police culture and that of youth. The Department of Justice has agreed to make every effort to work with training consultants in the delivery of the report's recommendations.

The Office of the Ombudsman has committed to working with Police and Public Safety Services, Department of Justice, to perform policy and procedural audits to ensure that services are properly meeting the needs of children and youth in their holding cells, according to provincial standards and the rights of children. Further agreements were made in November 2000 to establish a presence within the RCMP police setting. Although as a federal institution the RCMP is outside the jurisdiction of the Office of the Ombudsman, a positive working relationship is mutually beneficial given the shared commitment to restorative justice initiatives. The work with the RCMP will mirror that with provincial policing services.

ACCOUNTABILITY FOR YOUTH IN CARE: PENDING PARTICIPATION

Following an intensive consultation process in 1999–2000 with the Department of Community Services officials, the Children's Aid Society, Family and Children's Services Agencies, and Residential Child-Caring Facilities, the Office of the Ombudsman and the Department of Community Services agreed to create a phased-in approach to delivery within the child protection framework. Phase I will encompass expanding the role of the Children's Ombudsman Section to oversee the 31 licensed Residential Child-Caring Facilities in Nova Scotia and the Secure Care Facility expected to open in the Fall of 2002.

COOPERATION

The Office of the Ombudsman has successfully established many positive working relationships with various municipal, provincial, and federal government departments and agencies and with several non-government organizations (NGOs) and universities throughout Canada. This includes sitting on several provincial committees, and working closely with the federal Department of Justice by attending roundtable sessions specifically in relation to youth justice initiatives.

Right Way Program

The Objectives of the partnership between Save the Children Canada (Right Way Program) and the Children's Ombudsman are to:

- *promote richer understanding and expanded knowledge among young people in care and other "at risk" youth of their rights under the* UN Convention on the Rights of the Child
- *empower young people to advocate for themselves in safe and effective ways particularly by connecting them to advocacy support*
- *provide an opportunity for young people to discuss issues pertaining to their rights and to help one another develop solutions to problems they face*

- Save the Children Canada

This office is also closely connected to the National Youth in Care Network—a national charitable organization completely driven by youth in care (14–24 years of age) across Canada. The National Youth in Care Network exists to voice the opinions and concerns of youth in and from care and promote the improvement of services for this groups. The office has assisted the Network on projects such as *Youth for Youth Reintegration: A Model Development Project and the Peer Helpers Program.*

The Office of the Ombudsman maintains ties with the Child Welfare League of Canada, the Children's Rights Centre at the University College of Cape Breton and sits as a member on the Canadian Council of Provincial Child and Youth Advocates (CCPCYA). As a member of the CCPCYA, the Children's Ombudsman Section participates in research projects and information sharing on such pertinent issues as secure care/treatment; aboriginal child welfare; and the youth justice system.

The Canadian Council of Provincial Child and Youth Advocates is an alliance of the five provincially appointed Children's Advocates from the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, and Ontario; the Nova Scotia Children's Ombudsmen; the Commission des droits de la personne et des droits de la jeunesse from the province of Quebec; and the British Columbia Children's Commissioner.

Although the mandates of each differ, through the Council, they share a common commitment to further the voice, rights and dignity of children.

- CCPCYA

All of these positive working relationships provide the Office of the Ombudsman with valuable insight and information on policy and issue trends across Canada, which will assist with recommendations for best policy, practices, and service delivery for the children and youth of Nova Scotia.

FUTURE DIRECTIONS

The work of the Children's Ombudsman Section is a necessary and constructive initiative of the Office of the Ombudsman. Work with the children in custody has led to the successful resolution of numerous concerns, greatly reducing the likelihood of such devastating circumstances outlined in the *Stratton Report*. As the work of the Office expands, we expect to receive an increase in complaints as the children and youth in the care or custody of the provincial and municipal governments in Nova Scotia use our services. To help coordinate this expansion, a case management information system is being developed to document all records and patterns pertaining to such youth. This innovative database will allow for cross-referencing, and will track patterns of concern based on criteria outlined in the UN *Convention on the Rights of the Child*. The system will be remotely accessible, allowing field officers to quickly obtain statistics and track recurrences of concerns and complaints from anywhere in the province.

A PORTRAIT OF THE WORK OF THE OFFICE OF THE OMBUDSMAN

The following case studies provide some specific examples of investigations and complaint types handled by the Office of the Ombudsman. These summaries have been selected in order to offer examples of common types of concerns addressed by the Office, including referrals and declined cases, and illustrate the variety of issues we deal with, as well as the limitations of the Ombudsman's jurisdiction.

LEGAL AID CONCERNS: CREATING SOLUTIONS

The Nova Scotia Legal Aid program is available to Community Services clients, based on inability to pay. Legal Aid can assist people when they are charged with criminal offences, or with some limited civil concerns. In 1995, a Community Services client needed assistance with an aggravated assault charge, and was assigned to the same lawyer he was assigned for an earlier criminal charge.

Previously the lawyer and the client had experienced personality conflict that had only been resolved when the client was reassigned to another lawyer. In this instance, however, there were no other lawyers available to take on the case. The client appealed to the administrator at the local Legal Aid office, who was unable to accommodate the client because of staff shortages.

The Ombudsman investigator assigned to the case contacted the administrator of the Legal Aid office of the neighbouring county to discuss the situation. The investigator met with the client and the administrator, and it was determined that a lawyer from another office would be able to handle the case. Through simple intervention, and consideration of alternative solutions, the client's concerns were alleviated.

WAGE SETTLEMENT

The complainants were non-unionized employees. They were unhappy about a decision by their employer to reduce their salaries effective November 1, 1994, by approximately 35%. Another group of non-unionized employees also had salaries reduced by a similar amount. All other employees had their salaries reduced by 3% as legislated by the *Public Sector Compensation(1994-97) Act*.

Before the wage reduction, a representative salary of the complainants group was $25,463.89. With the reduction, a representative salary in 1995 would be $15,680.00. In June 1997 the work schedules of these employees were further reduced from seven to five hours per day. Following the subsequent reduction of hours, a representative salary was approximately $14,000.00.

Based on our review the Ombudsman found that the group, as a classification of employees, endured a disproportionate amount of hardship, as a result of the decisions to reduce their salaries, and to reduce their hours of work. The Ombudsman's Interim report did not include recommendations. Based on its findings, this Office suggested that the parties resume discussion to determine the most appropriate means and time frame to adjust the compensation, including pension and other benefits, as well as hours of work for the complainants. This would be done to ensure reflection of the intent of just and equitable working conditions as outlined in the respondent's Policy Statements. The parties were not able to reach an agreement. A final report was issued with the following recommendations:

> The top salary for the complainants' classifications under the current Collective Agreement is $13.50 per hour. The hours of work are set at 5.5 hours per day, with exceptions based on the individual needs of the student. Given the goal of standardization for all employees in the same positions in the Collective Agreement of the respondent the recommendations of this Office must be consistent with the current Collective Agreement.

The Office of the Ombudsman recommended that the respondent recalculate the salary level, including pension and other benefits, for the time period of November 1, 1994 to November 1, 1997 for the complainants; pay the difference in salary directly to the affected employees; and make relevant alterations in pension and other benefits for each employee. The office further recommended that the salaries and associated benefits be recalculated at $13.50 per hour, 5.5 hours per day.

The recommendations were accepted and implemented.

CONFLICTS: TRYING TO BALANCE INDIVIDUAL RIGHTS

Sometimes, the Office of the Ombudsman is required to mediate between the rights of two individuals, both of whom have legitimate concerns. An example of this type of situation arose when a client family of the Department of Community Services rented a room in their home to a boarder who was also a client of Community Services. After the boarder had lived with the family for two months, Community Services determined that he had been charged as a juvenile with a sexual offence. Community Services notified the family that unless the boarder left, the couple's young daughter would be removed from the home and placed with a foster family for her protection. The family believed that the boarder was no threat to their daughter as his charges had been resolved almost 10 years prior. They had become quite close to him, and were concerned that he would be homeless because he could not afford any other housing in the area.

The boarder and host family contacted the Office of the Ombudsman to see if there was any way to resolve the situation. Because Community Services was considering taking the child into custody, the Investigator prioritized the matter, and tried to address the government's concerns for the child's safety as quickly as possible. Due to the concern for the safety of the child and the potential liability of the department, there was no possibility for allowing the boarder to remain with his host family. The Ombudsman, however, was able to arrange a solution that was agreeable to all parties by facilitating an expedited process by Community Services in locating alternative affordable housing for the man.

OPENING THE LINES OF COMMUNICATION

An individual was advised she owed a government department money as a result of an overpayment. She had the paperwork to show that she has paid it back; however, she was having difficulty convincing the government employee to review her case. Calls by the Office of the Ombudsman to the employee and then to the supervisor initiated a review of her file which confirmed she did not owe money. She was reimbursed the amount she had paid and the repayment cancelled.

PUBLIC SERVICE AWARD

An employee of the provincial government had borrowed on her public service award. When she died, the benefits in the amount of $8,800.00 were paid to her widower by mistake as she had not repaid the amount owed. The mistake was discovered a year later by the department. An employee advised the complainant that he was now being held responsible for the amount of the repayment, plus interest. The employee did not ask him about his current income before proposing the repayment plan. The amount was beyond the complainant's financial ability. The employee told the complainant that if this matter was not cleared up the department may stop his monthly superannuation pension cheque. This added to the frustration of the complainant as he felt pressured into agreeing to pay the amount requested.

The department clearly indicated to this Office that the overpayment was the result of an error on its part. The department was also responsible for the delay in notifying the complainant of this error. As the mistake was made by the department, this Office felt the onus was on the department to be flexible in its resolution. The Office of the Ombudsman recommended that the debt be recalculated with the interest ending as of the date the cheque was issued. The office further recommended that the complainant be invited to contact the department to negotiate a new repayment schedule, with his current financial situation taken into consideration.

The Office of the Ombudsman also recommended that the department make inquiries into the person's financial situation, and requested his input into what he felt to be a reasonable amount to repay on a monthly basis. The office also recommended that, in situations where the department is responsible for errors, the reasonable time frame allotted to repay the debt should favour the person who has to pay the debt, not the department. The recommendations were accepted and implemented.

CHILDREN'S OMBUDSMAN SECTION - SAMPLE CASES

Our children are our hope. Our humanity, compassion and wisdom can be measured by how we care for our children.

- Source unknown

SYSTEMIC REVIEW OF YOUTH COMPLAINTS - "REVIEW OF DISPOSITION" PROCESS - NOVA SCOTIA LEGAL AID AND CORRECTIONAL SERVICES, DEPARTMENT OF JUSTICE

Over a period of time, the Children's Ombudsman Section noticed an increase in the number of complaints from youth within Young Offender Facilities who were expressing a concern that their legal aid lawyers were not returning their phone calls in request for a "review of disposition." Both youth and staff of the Youth Facilities reported that the application process for a review was confusing and handled differently depending on the individual Legal Aid lawyer. In reviewing the matter, it was determined that there were unnecessary time delays in securing a review date for young offenders and that there did not appear to be a standard application process.

Identifying this as a systemic issue, this Office was successful in bringing about positive change. By working closely with the Director of Correctional Services, Department of Justice, and with the Executive Director of the Nova Scotia Legal Aid Commission, an agreement was reached regarding a standardized application process for a review of disposition. The new process included the issuance of a joint application protocol along with the design of new youth-friendly application forms.

FEMALE YOUTH DENIED BASIC NECESSITIES WHILE IN POLICE CELLS - MUNICIPAL POLICE SERVICES

Two separate investigations conducted by the Children's Ombudsman identified situations where young females, held in police holding cells over night, were denied basic necessities. The investigations revealed that while retained in cells, the females had requested feminine protection, warm covering, and, in one incident, medical attention. The Children's Ombudsman viewing of videos and log documentation revealed a number of maladministrative issues.

On concluding the investigations, this Office released separate reports where it was concluded that while most of the official policies and procedures in place were appropriate, other systemic features of the organization created an environment in which conflict between the police and youth, and

inappropriate treatment of young people within the criminal justice system, could occur. Several recommendations were made designed to improve the competence of the police force in dealing with youth within their system. These included building competencies into organizational goals and accountability systems (job specifications, performance appraisals), as well as training and education on youth-related issues to address barriers to productive interactions between police and youth and to increase the sensitivity of police and staff. With respect to the training, the Office of the Ombudsman, in partnership with the Children's Rights Centre, University College of Cape Breton, developed and delivered a series of one-day Children's Rights Training Sessions to all employees of the Municipal Police Services in question.

TOOLS OF THE OMBUDSMAN TRADE

AN OMBUDSMAN'S DICTIONARY

Familiar terms can carry more weight or hold different meanings when they are used by the Ombudsman or Investigators in their work. Under Section 20(1) of the *Ombudsman Act*, the Ombudsman can determine that a grievance exists. This section outlines the various bases or criteria which constitute maladministration, or unfairness. Investigations are conducted to determine whether decisions, actions or policies of government bodies contravene Section 20(1) of the *act*. The following is a brief explanation of the terms used in Section 20(1) defining unfairness under the *act*, as well as some of the common elements in investigations. While these definitions should not to be viewed as definitive interpretations, they may help clarify some of the work, actions, or decisions of the Office of the Ombudsman.

Allegation

An allegation is an unproven claim or statement. To the Office of the Ombudsman, an allegation refers to a formal complaint filed under the *Ombudsman Act* claiming some form of maladministration by government.

Complaint

Section 12(1) of the *Ombudsman Act* states that investigations are initiated when the Ombudsman receives a written complaint. The Ombudsman is not limited to investigations where complaints are received. A committee of the House of Assembly can refer matters to the Ombudsman for examination, or the Ombudsman can initiate an "own-motion" investigation if it is believed that some maladministration has occurred.

Complainant

The complainant is an individual who initiates an investigation by submitting a grievance to the Ombudsman. The complainant may be an individual, society, company, or a group of individuals affected by maladministration.

Contrary to law

There are two elements which can make a government action, decision, or policy contrary to law. The first element occurs when an agency makes a decision or takes an action which is outside that agency's legislative authority. The second element is found where an action, decision, or policy is not allowed under the relevant legislation or the common law.

A department was informed by its legal counsel that it would be an infringement of statutory privacy rights to require access to applicant's criminal record. Had the program administrators denied an applicant admission to program benefits because of the refusal to divulge the details of the record, this decision would have been contrary to law.

Discretionary power

Authority to make decisions or take action that lies in the hands of appointed officials is discretionary. These officials must look at a problem from all sides and make their decision based on all the available facts, including the public good, to make fair judgments.

Fair

The concept of fairness is central to all the work of the Ombudsman. When the Ombudsman determines that something is "unfair," it can be based on any of the criteria set out in the *Ombudsman Act*. The Ombudsman does not use the word in a general sense, but always in the context of these criteria, helping to illustrate both administrative fairness and compassion.

Improperly discriminatory

Many government programs are designed to make services or opportunities available to people who otherwise would not have access to them. In order for this to be achieved, the programs need to have clear, established criteria to discriminate—or separate—those who are eligible and those who are not. These criteria are improperly discriminatory if they are not reasonably required to meet the goals of the program.

Mediation

Mediation can come in many forms and falls under the general title of "alternative dispute resolution," or ADR. The Office of the Ombudsman attempts to mediate between parties throughout the investigative process in efforts to achieve solutions that are satisfactory to all individuals involved, and that meet the standards of fairness in government action. Mediation can occur at any stage in the investigation process.

Mistake of fact

This can occur when a decision-making body misunderstands the facts of an issue, leading it to make incorrect assessments, ultimately resulting in a poor or incorrect decision.

When surveying private properties in preparation for levying local improvement charges in a residential area, a local engineering and works department miscalculated the dimensions of a property because it had misread land maps. A property owner was incorrectly assessed. This error was a mistake of fact on the part of the municipality. A simple re-evaluation of the property deeds and maps clarified the error, and the improvement charges were reduced.

Mistake of law

This is a legal concept which holds that a decision is erroneous—and can constitute maladministration—where a decision-making body has misinterpreted the law and based decisions or actions upon that faulty interpretation.

The jurisdiction of many provincial departments is sometimes unclear in reference to the jurisdiction of federal counterparts. A provincial department refused to assist a local resident's concerns as relevant legislation was interpreted so as to hold the federal department responsible. In the opinion of the Ombudsman, it was the purpose and intent of the legislation that the provincial department would be responsible. Following this analysis, the department agreed to address the resident's concerns.

Oppressive

Government criteria or expectations may become oppressive when requirements are extremely difficult or impossible to meet. Actions which are difficult or impossible to resist can also be seen as oppressive.

An administrative panel levied fines and renovation requirements on a downtown business. While the intent of the criteria was to ensure that the business did not disturb residents, the renovations had the effect of forcing the business to shut down due to their high cost and severe limitations attached to the business licence. These requirements were considered oppressive because the business owners had no choice but to comply with the decision of the panel.

Recommendations

The recommendations of the Ombudsman are the changes or actions that the Ombudsman feels would rectify an unfair situation. Recommendations can be as simple as reopening a particular file. Recommendations may also advise financial compensation for lost wages and alterations to governing legislation. Recommendations differ from orders, which government bodies are required to comply with. The Ombudsman cannot issue orders.

Respondent

Respondents are the government departments, agencies, officials, or organizations that are the subject of complaints. While there are frequently secondary parties who are impacted or have affected the complaint, only those government departments responsible for the action or decision complained of are considered to be respondents.

Report

The Office of the Ombudsman communicates the outcome of an investigation to the complainant(s) and the respondent(s). If necessary, an Interim Report is compiled outlining the preliminary findings of the Office. A Final Report will also be issued detailing the final conclusions of the Office and any recommendations made. A Final Report need not take the form of a formal report, but may be a letter outlining the Ombudsman's or Investigator's conclusions.

Under Section 20(3) of the Ombudsman Act, the Ombudsman may table a formal Report in the House of Assembly regarding the complaint, making public the actions of government in relation to citizens. The Ombudsman will only take this step if the Respondent is unwilling to remedy the situation leading to the complaint, and when the Ombudsman determines that making the complaint and investigation public is in the prevailing public interest. The Nova Scotia Ombudsman has only taken this final step twice.

Unreasonable

A decision that is unreasonable is one that fails to consider the position of all parties, and examine all relevant material. However, a decision is not seen as unreasonable simply because the Ombudsman disagrees with the result.

In order to receive some financial benefits, a mother was required to find child-care over the summer months. It was decided that the mother should have been able to find child-care within her allowance. The board was unable to offer evidence suggesting the availability of affordable child-care and therefore the decision was felt to be unreasonable.

Unjust

Government decisions imposing mandatory or inordinate obligations on an individual are considered to be unjust, as are those in which specific groups are unfairly impacted.

It was unjust for the provincial government to seek to garnish a debtor's wages to repay a large debt, because it had never informed her of the arrears of payment, nor sought to collect the money from the co-debtors.

Wrong

Decisions which are morally or ethically inappropriate, or are plainly illogical are considered to be wrong. A decision is not considered to be wrong simply because the Ombudsman does not agree with the outcome.

An individual was refused assistance in obtaining requisite health-care documentation by government workers because the agency's receptionist had found his opinions offensive and abusive. The Ombudsman determined that this was a wrong decision. The man was held to deserve equal access to health care even though he was abrasive and his opinions offensive. The Ombudsman assisted the man to organize his documents and obtain a health card.

GUIDELINES TO MINIMIZE CONFLICT

These Guidelines will remain in affect as long as there is a cross appointment between the Office of the Ombudsman and the Nova Scotia Human Rights Commission.

These Guidelines apply to the investigation of all complaints to the Office of the Ombudsman concerning the Nova Scotia Human Rights Commission.

These Guidelines are given to each person who makes a complaint to the Office of the Ombudsman concerning the Nova Scotia Human Rights Commission, when the complaint is made. In addition these Guidelines are given to, and apply to, each person working in the Office of the Ombudsman.

1. The Ombudsman shall have no involvement in the investigation of a complaint concerning the Human Rights Commission.

2. The intake or complaint form in the Office of the Ombudsman shall clearly indicate if the complaint is with respect to the Human Rights Commission and, if so, the complaint should go directly to the Director of Investigations, bypassing the Ombudsman.

3. No investigator or employee of the Office of the Ombudsman should discuss an investigation or complaint concerning the Human Rights Commission with the Ombudsman or with any other individuals who have cross appointments between the Office of the Ombudsman and the Human Rights Commission.

4. The investigation of a complaint concerning the Human Rights Commission should be discussed only within a limited group of investigators and support staff who will work on such complaints. No member of that group should show any document relating to a Human Rights Commission complaint to any other employee of the Office of the Ombudsman.

5. The files relating to any complaint concerning the Human Rights Commission including computer files should be physically segregated from the Office of the Ombudsman's regular filing system. Further, they should be accessible only to those investigators and support staff in the Office of the Ombudsman who are working on Human Rights Commission investigations or to others within the Office of the Ombudsman who require access for other specifically identified or approved reasons and who have the approval of the Director of Investigations to do so.

6. Complaints against the Human Rights Commission shall be brought to the attention of the Chair of the Human Rights Commission.

7. All correspondence and communication to be made with the Human Rights Commission pertaining to a complaint against the Human Rights Commission shall be directed to the Chair of the Human Rights Commission.

THE OFFICE OF THE OMBUDSMAN

5670 Spring Garden Road
Suite 609
PO Box 2152
Halifax, NS
B3J 3B7

(902) 424-6780
toll-free in Nova Scotia: 1(800) 670-1111
toll free Children's: 1-888-839-6884
fax: (902)424-6675

e-mail: ombudsman@gov.ns.ca
internet: www.gov.ns.ca/ombu

NOTES

NOTES